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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

AUG 23 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Streamlining the International)
Section 214 Authorization Process) IB Docket No. 95-118
and Tariff Requirements)
_____)

COMMENTS OF SPRINT COMMUNICATIONS COMPANY L.P.

Sprint Communications Company L.P. ("Sprint") hereby respectfully submits its comments on the *Notice of Proposed Rulemaking*, FCC 95-286 ("Notice") issued July 17, 1995 in the above-captioned proceeding.

Sprint fully supports the Commission's proposals to minimize the licensing and tariffing requirements now imposed upon international nondominant carriers. It agrees that such proposals "will enable international carriers to respond to the demands of the market with a minimum of regulatory interference," thereby "saving time and money both for the industry and government" as well as enhancing "economic efficiency and consumer welfare." Notice at ¶1. Indeed, the Commission's efforts here to streamline its international licensing and tariffing processes are excellent examples of the current

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Administration's policy of making government regulation less burdensome by jettisoning unnecessary rules and requirements.

The Commission's proposals should also help minimize the efforts of AT&T -- the dominant international carrier -- to impede the ability of its competitors to obtain the same type of authority it possesses. For example, AT&T has been able to exploit the current regulatory regime to delay the grant of Section 214 authority to Sprint to provide switched services between the United States and the United Kingdom via international private lines interconnected to the public switched network. AT&T received authority to provide switched services over interconnected private lines in the U.S.-U.K. market in January, 1995. See *American Telephone and Telegraph Company*, 10 FCC Rcd 3201 (1995). However, in response to Sprint's application for the same private line resale authority (Sprint Communications Company L.P., File No. I-T-C-95-155 filed January 24, 1995), AT&T filed "comments" in which it asked the Commission to impose certain conditions upon any grant of such private line resale authority to Sprint. Although Sprint demonstrated that AT&T's request was totally unjustified (Reply of Sprint dated March 28, 1995), the Commission has yet to act upon Sprint's application. The Commission's proposal, under which "all

previously authorized resale carriers would be automatically allowed to resell interconnected private lines," Notice at ¶21, to any country where the Commission has made "an initial equivalency determination," *id.*, should limit such anti-competitive tactics by AT&T.

Although the Commission's proposals are clearly in the public interest, Sprint believes that two modifications, both of which relate to the Commission's proposed regulatory treatment of non-dominant facilities-based carriers with foreign affiliates, are necessary. First, the Commission's proposed foreign affiliation test for determining the type of processing the Section 214 application of a non-dominant facilities-based carrier would receive not only fails to distinguish between foreign affiliates with and without market power but also ignores other types of business relationships short of affiliation which can raise problems of discrimination and which would require closer regulatory supervision. Under the Commission's proposal, only non-dominant facilities-based carriers without foreign affiliates would be eligible for the automatic grant of their unopposed applications seeking global Section 214 authority. See Notice at ¶10. The Commission's stated reason for requiring written orders where a U.S. international carrier has foreign

affiliates is that, in light of such relationship, "it may be appropriate to include safeguards to protect against discrimination or other anticompetitive conduct by the carriers involved." *Id.* at ¶15

However, this rationale makes no sense where the foreign affiliate of the U.S. non-dominant carrier itself lacks market power in its home country. For instance, Sprint is now affiliated with carriers in the U.K., Canada, Germany, France, Australia and New Zealand. All of these affiliates are resale carriers in their respective foreign countries. They do not have bottleneck control of facilities and services, and because they lack market power, there is no danger that they would be able to engage in discriminatory or anticompetitive behavior. Under these circumstances, the imposition of "safeguards to protect against" such behavior would be unnecessary. Yet, as currently proposed, the rules would require Sprint and other U.S. international carriers with non-dominant foreign affiliates to wait for a written order granting them global Section 214 authority instead of receiving such grant automatically.

To avoid this unwarranted result, the Commission should modify its proposed processing rules to limit the requirement for written authorizations (1) to those carriers that are affiliated

with foreign carriers that are dominant in their home countries and (2) where the application includes a request to provide services between the U.S. and such dominant foreign affiliate's home country. The unopposed applications of non-dominant U.S. carriers with non-dominant foreign affiliates would be granted automatically 35 days after the date of the initial public notice of such application.

At the same time, the Commission's triggering mechanism for the type of processing an application by a non-dominant facilities-based carrier receives needs to be expanded to include other types of business arrangements between U.S. and foreign carriers short of affiliation, e.g., co-marketing agreements and partnership interests in third entities. These arrangements clearly raise the potential for discriminatory and anticompetitive behavior. For example, the AT&T WorldPartners consortium and its Unisource alliance may not involve affiliations as that term is defined in the Commission's rules, see 47 CFR §63.01(r)(i), but the foreign carriers participating in such consortium and alliance, which, for the most part, are monopolies in their home countries, have an interest in favoring AT&T at the expense of its competitors. See Sprint's Comments filed April 11, 1995 in *Market Entry and Regulation of Foreign-*

affiliated Entities, IB Docket No. 95-22 at 32-33. Indeed, the Justice Department has observed that parties which invested in a joint venture have the incentive to favor one another. Thus, in its Competitive Impact Statement filed July 13, 1995 in *U.S. v. Sprint Corporation and Joint Venture Co.*, C.A. No. 95 CV 1304, the Department stated (at 83) that

while the level of equity investment [by FT and DT in Sprint] here does play a substantial role in creating additional incentives for FT and DT to favor Sprint, it was not clear that reducing the current investment in Sprint would have eliminated those incremental incentives, given the additional extensive investments that the parties also are planning to make in the joint venture.

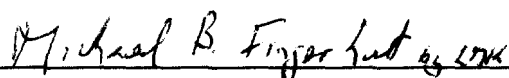
Under the Commission's proposal, however, a non-dominant facilities-based carrier which had entered into such a business relationship with a dominant foreign carrier would be eligible for the automatic grant of its Section 214 applications. To remedy this anomaly, the Commission should modify its proposed rules to specify that a non-dominant facilities-based carrier which has entered into a significant business relationship with a dominant foreign carrier will not automatically be granted global Section 214 authority, but must await a written order of the Commission.

Second, the Commission proposes that a carrier previously authorized to resell private lines interconnected to public switched network would not automatically be able to provide such resold services in a country subsequently designated as equivalent by the Commission if such country is one "in which the foreign carrier with which it has an affiliation ... owns or controls telecommunications facilities." Notice at ¶22. Instead, such carrier would have to await a written order. Sprint recognizes that this exception is currently set forth in the Commission's rules. See 47 CFR §63.12(c)(2). However, consistent with its discussion above, Sprint suggests that the exception be modified to ensure that it applies only in cases where the such foreign carrier affiliate is dominant in its home market. By clarifying that the exception is limited to those "equivalent countries" where the foreign carrier affiliate is dominant, the Commission would still be able to weigh the potential for anticompetitive behavior by the foreign carrier in determining whether to grant the U.S. carrier authority to resell interconnected private lines and at the same time fulfill the goal of this rulemaking of easing regulatory burdens on non-dominant U.S. carriers affiliated with non-dominant foreign carriers.

In sum, Sprint commends the Commission for its willingness to re-examine its regulations as applied to non-dominant U.S. international carriers and to sharply reduce or even eliminate those found to be unnecessary. The proposals are overwhelmingly in the public interest and with the modification and clarification suggested above, Sprint urges their adoption as rapidly as possible.

Respectfully submitted,

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August 23, 1995

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "**Comments of Sprint Communications Company L.P.**" was sent by hand or United States first-class mail, postage prepaid, on this the 23rd day of August, 1995, to the below-listed parties:

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August 23, 1995

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